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513	7590	08/25/2006	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			BEACH, THOMAS A	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/501,325
Filing Date: November 09, 2004
Appellant(s): ALMDAHL ET AL.

MAILED

AUG 25 2006

GROUP 3600

Michael S. Huppert
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 05/15/06 appealing from the Office action
mailed 08/25/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claims 7-9 and 15 appears on page 12 of the Appendix to the appellant's brief. The minor errors are as follows: only the appealed claims should have been included in the claims appendix.

(8) Evidence Relied Upon

4580626	JONES	4-1986
4441742	OWENS III	4-1984

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 7-9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones 4,580,626 in view Owens III 4,441,742. Jones shows a riser control device, particularly designed to be used in connection with spool or horizontal production trees for wells in sub-sea oil and gas installations, where within a housing (32) provided in opposed direction radially movable pair of rams (26, figure 1) for isolating the well and simultaneously, in opposed direction radially movable pair of shear blades (34) for cutting off an intervention string, the rams and blades being driven by means of a within the housing (32) with horizontal actuation that is hydraulically operated, but does not show vertical actuation.

Owens shows a similar riser control device, in the same well art technology, having a pair of rams vertically actuatable to isolate the well (figures 1-2) within the

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housing (12), where the actuator is also hydraulically driven and annular piston and chamber device (43) [claim 8]; in which via piston rods (45) and translation beams (26/54/40) transform the movement of the piston to open or close the rams whereby the radial or annular movement of these elements actuates a closing member would imply radial/annular movement of the rams [claims 9 & 15].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jones, as taught by Owens, by replacing horizontal actuation with vertical actuation to improve the actuating force (Owens: col. 2, lines 25-38) that would be applied to the cutting blades, thereby improving the cutting properties of the apparatus of Jones.

As concern claim 8, The combination shows the vertically disposed actuator assembly comprises a hydraulically driven annular piston disposed in an annular chamber, a piston rod connected to said piston, and a translation beam connected to said piston rod for transmitting movement of said piston to open or close said rams and blades (Owens, as noted above in the rejection of claim 7).

As concern claims 9 and 15, the combination shows blades and said rams are connected such that radial movement of said blades can cause radial movement of said rams (Owens, as noted above in rejection of claim 7).

(10) Response to Argument

Applicant's arguments have been fully considered but they are not persuasive.

Applicant's arguments regarding the housing of Jones are noted (pages 6 & 9 of the Appeal Brief); however, no specific claim language defines that the housing cannot be separate or preclude the interpretation presented by the Examiner, thus the claim language is still met. The supposed "totally different" arrangement of Jones still reads on the claim language.

Also, applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the housing being inside/within the riser) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Furthermore, the argument that Owens "does not isolate" a well are not convincing since the connections of underwater well members in Owens is a form of isolation within the well art, connecting or removing well members creates isolation. Finally, this issue is not required by the claim language and only noted as a being factual similarity between these references.

Applicant's arguments that Owens is only a connector and not shear blades, thus not relevant, have been noted. However, one of ordinary skill in the art of underwater well art technology knowing about the horizontal actuator shears to control a riser would certainly be aware of other underwater actuating systems used to control risers, such as the vertical actuators of Owens, whether or not if the device is used for an unexpected

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event like for blowout preventor or production connection. These two types of events are part of the overall production process and are not mutually exclusive from one another. Therefore, their respective technologies easily flow together thus formally a factual bridge of relevance. The argument of these references are not analogous is not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. The bridge between these two references has been established above in the rejection and in the response to arguments.

The argument that Owens fails to show shears is noted; however, Owens is a teaching of actuation means used in the subsea well art known to one of ordinary skill and is not required to show all elements of the base claim.


In response to applicant's argument that Owens does not show an annular piston are noted; however, the piston arrangement of Owens is considered annular since these elements are annularly located on the riser as described in the rejection above, and thus considered annular. Furthermore the claim language does not preclude this interpretation.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



THOMAS A BEACH

Conferees:

Thomas Will 

Darnell Jayne 